

**Notice of Allowability**

Application No.

10/070,775

Applicant(s)

EL-SHERBEINI ET AL.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/6/04.
2. ☒ The allowed claim(s) ~~is~~ are claims 1 and 4-6. Claims 4-6 are now renumbered as claims 2-4 respectively.
3. ☒ The drawings filed on 07 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|   | 9. <input checked="" type="checkbox"/> Other <u>Attachment</u> .                       |

## **ATTACHMENT TO NOTICE OF ALLOWABILITY**

### **Applicants' Amendment**

- 1) Acknowledgment is made of Applicants' amendment filed 07/06/04 in response to the non-final Office Action mailed 04/02/04.

### **Examiner's Amendment**

- 2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R. 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Mr. Michael Yablonsky provided the authorization for this Examiner's amendment in a telephone interview on 8 September 2004. This application has been amended as indicated below:

- (a) Claims 7-17 have been canceled.
- (b) In line 1 of claim 5, the limitation: 'A polynucleotide that is an expression vector' is replaced with the limitation --An expression vector--.
- (c) In line 1 of claim 6, the limitation: 'A host cell' is replaced with --An isolated host cell--.
- (d) On page 21 of the specification, the text in lines 7 through 17 has been deleted.
- (e) At line 33 on page 21 and line 17 on page 16, the recitation 'Novagen' is replaced with --NOVAGEN--.
- (f) At line 18 on page 16, the recitations 'Invitrogen' and 'Pharmacia' are replaced with --INVITROGEN-- and --PHARMACIA-- respectively.
- (g) At line 17 on page 16, the recitations 'Qiagen' and 'Novagen' are replaced with --QIAGEN-- and --NOVAGEN-- respectively.

### **Status of Claims**

- 3) Claim 1 has been amended via the amendment filed 07/06/04.  
Claims 2 and 3 have been canceled via the amendment 07/06/04.  
Claims 5 and 6 have been amended via this Examiner's amendment.

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Claims 7-17 have been canceled via this Examiner's amendment.

Claims 1 and 4-6 are pending and are under examination.

**Objection(s) Withdrawn**

- 4) The objection to the specification made in paragraph 6 of the Office Action mailed 04/02/04 is withdrawn in light of the amendments made via this Examiner's amendment.

**Rejection(s) Moot**

- 5) The rejection of claim 2 made in paragraph 7 of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, first paragraph, as containing inadequate written description, is moot in light of Applicants' cancellation of the claim.
- 6) The rejection of claim 2 made in paragraph 9(c) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of Applicants' cancellation of the claim.
- 7) The rejection of claims 2 and 3 made in paragraph 9(f) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is moot in light of Applicants' cancellation of the claims.

**Rejection(s) Withdrawn**

- 8) The rejection of claim 5 made in paragraph 9(a) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.
- 9) The rejection of claim 1 made in paragraph 9(b) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.
- 10) The rejection of claim 1 made in paragraph 9(d) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.
- 11) The rejection of claim 1 made in paragraph 9(e) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

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amendment to the claim.

**12)** The rejection of claims 4-6 made in paragraph 9(f) of the Office Action mailed 04/02/04 under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the base claim.

#### **Remarks**

**13)** Claims 1 and 4-6 are allowed. Claims 4-6 are now renumbered as claims 2-4.

The deletion of the first full paragraph on page 21 of the specification does not affect the claimed invention, since no plasmid having a specific ATCC accession number has been claimed.

**14)** Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of amendments, responses or papers is (703) 872-9306.

**15)** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**16)** Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.